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Legal Department, D1.429
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ATTORNEY DOCKET NO. 10010011-1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor(s): Herbert F. Cattell

Serial No.: 09/775,163

Examiner: Lori A. Clow

Filing Date: January 31, 2001

Group Art Unit: 1831

Title: READING CHEMICAL ARRAYS

COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria VA 22313-1450

TRANSMITTAL LETTER FOR RESPONSE/AMENDMENT

Sir:

Transmitted herewith is/are the following in the above-identified application:

- ☒ Response/Amendment ☐ Petition to extend time to respond
☐ New fee as calculated below ☐ Supplemental Declaration
☒ No additional fee (Address envelope to "Mail Stop Amendments")
☒ Other: Declaration Under 37 C.F.R. 1.131 (Fee \$)

CLAIMS AS AMENDED BY OTHER THAN A SMALL ENTITY						
(1) FOR	(2) CLAIMS REMAINING AFTER AMENDMENT	(3) NUMBER EXTRA	(4) HIGHEST NUMBER PREVIOUSLY PAID FOR	(5) PRESENT EXTRA	(6) RATE	(7) ADDITIONAL FEES
TOTAL CLAIMS		MINUS		= 0	X 50	\$ 0
INDEP. CLAIMS		MINUS		= 0	X 200	\$ 0
<input type="checkbox"/> FIRST PRESENTATION OF A MULTIPLE DEPENDENT CLAIM					+ 360	\$ 0
EXTENSION FEE	1 ST MONTH 120.00 <input type="checkbox"/>	2 ND MONTH 450.00 <input type="checkbox"/>	3 RD MONTH 1020.00 <input type="checkbox"/>	4 TH MONTH 1690.00 <input type="checkbox"/>		\$ 0
OTHER FEES						\$ 0
TOTAL ADDITIONAL FEE FOR THIS AMENDMENT						\$ 0

Charge \$ 0 to Deposit Account 60-1078. At any time during the pendency of this application, please charge any fees required or credit any over payment to Deposit Account 50-1078 pursuant to 37 CFR 1.25. Additionally please charge any fees to Deposit Account 50-1078 under 37 CFR 1.18, 1.17, 1.19, 1.20 and 1.21. A duplicate copy of this transmittal letter is enclosed.

Respectfully submitted,

Herbert F. Cattell

By

Bret E. Field for Dianne Rees
Attorney/Agent for Applicant(s)

Reg. No. 37,820

Date: 05-26-2005

Telephone No. (650) 485-5999

I hereby certify that this paper is being facsimile
transmitted to the Patent and Trademark Office on
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571 2738300
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Rev 10/04 (TransAmend)

17 pgs total

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571 273 8300

AMENDMENT and RESPONSE	Application Number	09/775,163
	Attorney Docket Number	10010011-1
	Filing Date	January 31, 2001
	First Named Inventor	Herbert F. Cattell
	Examiner	Lori A. Clow
	Group Art	1631
	Title	Reading Chemical Arrays

Sir:

This amendment is responsive to the Office Action dated March 7, 2005.

Atty Dkt. No.: 10010011-1
USSN: 09/775,163

REMARKS

In view of the following remarks, the Examiner is respectfully requested to withdraw the rejections and allow Claims 1-14, 16, 25-34, 37, and 43-55, the only claims pending and currently under examination in this application.

Claims 1-14, 16, 25-34, 37, and 43-55 have been rejected under 35 U.S.C. § 102 (a) as being anticipated by Genepix.

As stated in MPEP 2131:

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

In order for a cited reference to anticipate a claimed invention the reference must be prior art. To constitute prior art under 102 (a) the Genpex reference must have been published before the conception of the instant invention. Applicant submits herewith the Declaration of Herbert Cattell under 37 C.F.R. §1.131, which provides a showing of facts that the inventor conceived of the claimed invention prior to the November 2000 publication date of the Genepix art. In light of this Declaration, Applicant contends that the Genepix art does not qualify and therefore is not available to be used as prior art to the presently claimed invention.

Accordingly, Applicant respectfully request the rejection of Claims 1-14, 16, 25-34, 37, and 43-55 under 35 U.S.C. § 102 (a) as being anticipated by Genepix be withdrawn.

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9/25/05